

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL NOTE

HB 458 – SB 1348

March 26, 2021

SUMMARY OF BILL: Creates the “essential workers’ bill of rights.” Defines “essential worker.” Requires, during any state of emergency or disaster as declared by the governor, an employer of an essential worker to adopt and implement the essential workers’ bill of rights, which includes:

1. Provide adequate personal protective equipment;
2. Communicate to essential workers of when another essential worker has contracted a disease related to the state of emergency or disaster, including potential exposure to such disease;
3. Do not retaliate, discriminate, or take adverse action against an essential worker for reporting any unsafe work environment;
4. Pay employees hazard pay for any day the employee performs essential work for the employer outside of the employee’s residence. Such hazard pay is required to be a percentage of a fixed dollar amount; however, hazard pay shall not exceed \$25,000 in a year for a worker earning less than \$200,000, or \$5,000 in a year for an essential worker earning more than \$200,000 per year. Hazard pay must be in addition to, and not part of, an essential worker’s basic annual salary.
5. Pay the costs of childcare or healthcare needed by an essential worker for the duration of the state of emergency or disaster.

Authorizes any employee to refuse to work for an employer during a state of emergency or disaster, even if such employee is an essential worker. Prohibits any such refusal by an employee from being subjected to discrimination, dismissal, discharge, reduction in hours, or any adverse action from an employer.

Violations of this section must be prosecuted by the district attorney general of the judicial district in which the violation occurs, or the Attorney General and Reporter.

ESTIMATED FISCAL IMPACT:

Other Fiscal Impact – The extent and timing of mandatory local government expenditures are unknown but reasonably expected to exceed \$100,000 per governor declared state of emergency or disaster. *

Assumptions:

- This legislation defines an essential worker as “an employee of a business or entity who is providing essential services or functions during a state of emergency or disaster,

declared by the Governor pursuant to Tenn. Code Ann. § 58-2-107, and who is designated as an essential worker pursuant to law, rule, regulation, or executive order.”

- The legislation specifies what workers in essential industries qualify as an essential worker, and it is a broad, encompassing definition.
- Further, the definition of transportation business includes an *establishment operated for the purpose of conveying persons or property from one (1) place to another whether by rail, highway, air, or water and operation and services in connection with that conveyance*. This legislation will significantly impact local government transportation agencies, requiring additional pay and childcare benefits, among other required benefits, to such local government workers.
- Such additional benefits will be dependent on the frequency and duration of periods in which the Governor has declared a state of emergency or disaster.
- Based on information provided by the Tennessee Emergency Management Association, over the past 10 years, there have been at least 20 instances in which a state of emergency or disaster has been declared.
- The impact to state and local government as a result of this legislation will be based, among many other factors, upon the number of employees that are impacted, the number of times a state of emergency or disaster is declared by the Governor, the length of time in which the state of emergency or disaster remains in effect, and the amount of federal funding, if any, available for such expenditures.
- Such determinant factors are currently unknown, but it is reasonably assumed that this legislation will result in a mandatory increase in local expenditures exceeding \$100,000, each instance in which a state of emergency or disaster is declared by the Governor.

IMPACT TO COMMERCE:

Other Commerce Impact - This legislation will result in an unknown increase in business expenditures, dependent on the number of essential workers who this legislation will benefit, the number of times a state emergency or disaster is declared by the Governor, and the length of time any such state of emergency or disaster remains in effect. It is reasonably assumed that, for each instance in which a state of emergency or disaster is declared, there will be an increase in business expenditures exceeding \$1,000,000 statewide.

Assumptions:

- This legislation will result in a significant impact to commerce and jobs in this state, dependent on the number of private employees impacted, the number of times a state of emergency or disaster is declared by the Governor, and the length of time in which the state of emergency or disaster remains in effect.
- Such determinant factors are currently unknown, but it is reasonably assumed that this legislation will result in an increase in business expenditures, exceeding \$1,000,000, each instance in which a state of emergency or disaster is declared by the Governor.

*Article II, Section 24 of the Tennessee Constitution provides that: *no law of general application shall impose increased expenditure requirements on cities or counties unless the General Assembly shall provide that the state share in the cost.*

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink that reads "Krista Lee Carsner". The signature is written in a cursive, flowing style.

Krista Lee Carsner, Executive Director

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